

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHRISTOPHER MURPHY,)	4:05CV3076
)	
Plaintiff,)	
vs.)	MEMORANDUM
)	AND ORDER
TERRY K. WATANABE and)	
ANTHONY INFANTINO,)	
)	
Defendants.)	

Plaintiff alleges in this removed action that “[o]n or about April 23, 2004, [he] filed a chapter XI petition in bankruptcy in the United States Bankruptcy Court for the District of Nebraska[,]” and that he “brings this action personally and in his capacity as the debtor in possession of his bankruptcy estate.” (First Amended Complaint (filing 24) ¶ 1.) Defendants have filed motions to dismiss (filings 27, 29) in which they assert, among other things, that Plaintiff is not the real party in interest in his personal capacity, and that Plaintiff’s pre-petition claims against Defendants are not actionable because they were not listed in Plaintiff’s bankruptcy schedules.

Pursuant to our local rules,¹ this case will be referred to the United States Bankruptcy Court for the District of Nebraska for further action.

¹ “Upon the filing of a suggestion in bankruptcy, or other notification that a party to a civil case is a debtor in a bankruptcy case, the entire case will be referred to the bankruptcy court of this district for further action. . . . The bankruptcy judge shall request status reports from the parties. After reviewing the status reports, the bankruptcy judge will determine whether the case should proceed in bankruptcy court or be returned to district court. If the case is to be returned to the district court, the bankruptcy judge shall file a report and recommendation concerning withdrawal of the reference. . . .” NENGenR 1.5(a)(1).

IT IS ORDERED that:

- 1) This case is referred to the United States Bankruptcy Court for the District of Nebraska;
- 2) This case shall be terminated for statistical purposes by the Clerk of the United States District Court for the District of Nebraska; and
- 3) The Clerk of the United States District Court for the District of Nebraska shall deliver the court file to the Clerk of the Bankruptcy Court for the District of Nebraska.

August 30, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge